

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RONDELL RAY,

Petitioner,

v.

Case No. 16-C-743

UNITED STATES OF AMERICA,

Respondent.

SCREENING ORDER

Rondell Ray, through counsel, filed this petition pursuant to 28 U.S.C. § 2255, asserting that his sentence is erroneous under *Johnson v. United States*, 135 S.Ct. 2551 (2015). I must give the case prompt initial consideration pursuant to Rule 4 of the Rules Governing § 2255 Cases, which reads:

If it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief, the judge must dismiss the motion and direct the clerk to notify the moving party.

Rule 4, Rules Governing § 2255 Cases. During my initial review of habeas petitions, I look to see whether the petitioner has set forth cognizable constitutional or federal law claims and exhausted available state remedies.

Petitioner argues that he was sentenced as a career offender due to the district court's conclusion that he had a prior crime of violence. He asserts that the residual clause upon which this conclusion was based is unconstitutionally vague under *Johnson*. From the face of the petition, I cannot say that it plainly appears such an argument lacks merit. Accordingly, I will direct the

government to respond.

Pursuant to Rule 4 of the Rules Governing § 2255 Proceedings, within 45 days of the date of this order, the United States Attorney in and for the Eastern District of Wisconsin shall serve and file a legal brief or memorandum, or other responsive pleading, that addresses the arguments set forth in the petition. Petitioner may file a reply within 30 days of the filing of the Government's answer and/or responsive pleading. Upon review of the filings, the court will determine whether relief may be justified or whether a hearing may be warranted.

SO ORDERED this 24th day of June, 2016.

/s William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court